



IN REPLY REFER TO:

# United States Department of the Interior

## KENAI NATIONAL WILDLIFE REFUGE

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### COMPATIBILITY DETERMINATION

*The National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd-668ee) states that "The Secretary is authorized, under regulations as [s]he may prescribe, to – (A) permit the use of any area within the [National Wildlife Refuge] System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access wherever [s]he determines that such uses are compatible' and that "... the Secretary shall not initiate or permit a new use of a refuge or expand, renew, or extend an existing use of a refuge, unless the Secretary has determined that the use is a compatible use and that the use is not inconsistent with public safety." A compatible use is defined as "A proposed or existing wildlife-dependent recreational use or any other use of a national wildlife refuge that, based on sound professional judgment, will not materially interfere with or detract from the fulfillment of the National Wildlife Refuge System mission or the purposes of the national wildlife refuge." The compatibility determination is to be a written determination signed and dated by the Refuge Manager and Regional Chief of the National Wildlife Refuge System, signifying that a proposed or existing use of a national wildlife refuge is a compatible use or is not a compatible use.*

*Applicable compatibility regulations in 50 CFR Parts 25, 26, and 29 were published in the Federal Register October 18, 2000 (Vol. 65, No. 202, pp 62458 – 62483).*

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**Use:** ENSTAR Pipeline Right-Of-Way within the existing Funny River Road Right-of-Way

**Refuge:** Kenai National Wildlife Refuge

**Establishing and Acquisition Authorities:** The Refuge was first established as the Kenai National Moose Range by Executive Order 8979 on December 16, 1941. The boundaries were modified, purposes expanded, and name changed to Kenai National Wildlife Refuge under the provisions of the Alaska National Interest Lands Conservation Act (ANILCA) on December 2, 1980 (Public Law 96-487 Stat. 2371).

**Refuge Purposes:** The Executive Order purpose was primarily to "... protect the natural breeding and feeding range of the giant Kenai moose on the Kenai Peninsula, Alaska...". ANILCA purposes for the Refuge include: "(i) to conserve fish and wildlife populations and habitats in their natural diversity including, but not limited to moose, bear, mountain goats, Dall sheep, wolves and other furbearers, salmonids and other fish, waterfowl and other migratory and nonmigratory birds; (ii) to fulfill the international treaty obligations of the United States with respect to fish and wildlife and their habitats; (iii) to ensure to the maximum extent practicable and in a manner consistent with the purposes set forth in paragraph (i), water quality and necessary water quantity with the refuge; (iv) to provide in a manner consistent with subparagraphs (i) and (ii), opportunities for scientific research, interpretation, environmental education, and land management training; and (v) to provide, in a manner compatible with these purposes, opportunities for fish and wildlife oriented recreation." The Wilderness Act of 1964

(Public Law 88-577) purposes are to secure an enduring resource of wilderness, to protect and preserve the wilderness character of areas within the National Wilderness Preservation System, and to administer this wilderness system for the use and enjoyment of the American people in a way that will leave them unimpaired for future use and enjoyment as wilderness.

Policy (FWS 603 2.8) directs that pre-ANILCA purposes remain in force and effect, except to the extent that they may be inconsistent with ANILCA or the Alaska Native Claims Settlement Act, and that such purposes only apply to those areas of the Refuge in existence prior to ANILCA. The Executive Order purpose to protect Kenai moose, however, is treated as complimentary to the broader ANILCA purpose of conserving fish and wildlife populations; therefore, no special attention is given the Executive Order purpose in this compatibility review process.

Sec. 4(a) of the Wilderness Act provides that the purposes of the Act are to be within and supplemental to the purposes for which National Wildlife Refuges are established and administered. These purposes are applied to the approximately 1.3 million acres of Congressionally designated wilderness within the Refuge. While these purposes do not apply to the remaining approximately 700,000 acres of Refuge lands that are not designated wilderness, we must consider the effects of uses on any Refuge lands that might affect the wilderness areas.

**National Wildlife Refuge System Mission:** The National Wildlife Refuge System Mission is “To administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.

**Description of Use:** ENSTAR Natural Gas Company has requested a right-of-way for a new buried natural gas distribution pipeline located parallel to Funny River Road. The permit would grant permission to ENSTAR to enter and occupy lands within the Refuge to install, operate, and maintain a buried 6-inch high density polyethylene pipe within a 10-foot right-of-way, for a period of thirty years. The buried pipeline would be located on the Refuge near the Moose Range Meadows South Addition No.1 Subdivision, specifically at about mile 4 Funny River Road between Mann Road and Salamatoff Drive in Section 3, T 4 N, R 10 W, Seward Meridian, for a total distance of approximately 900 feet. This pipeline right-of-way would occur wholly within the existing right-of-way granted by the Fish & Wildlife Service to the Alaska Department of Transportation for the Funny River Road.

The total length of the new buried distribution pipeline is 29,000 feet and would ultimately serve about 100 households. This gas distribution pipeline would operate full time, year-round, transporting an annual average amount of 25,000 mcf of natural gas. This project has been funded and much of the pipeline installation off the Refuge was completed during 2008. The reminder of the project, including installation of the line within the Refuge boundary, would be completed by the end of 2009. Construction on this section of line would begin spring or early summer of 2009. Construction of the 900 foot section located on the Refuge is anticipated to take less than a week. Construction would occur in an area previously disturbed by road construction and shoulder maintenance. In addition to installation of the pipeline, three signs would be installed in the following locations: 1) where the pipeline enters the Refuge; 2) approximately 450-feet from the first sign; 3) at the end of the right-of-way. A locate box would also be installed at the end of the right-of-way.

Pipeline maintenance would be required to insure pipeline integrity and typically consists of inspection for corrosion and erosion, leak surveys and placement of nearby structures.

The maintenance work would be performed every four years and can be accomplished in less than one day. The Permittee would also be required to respond to requests to locate the pipeline in relation to construction, which is generally performed by a scheduled response, but emergency situations would require an immediate response. The facility locates are typically accomplished within a two day time period. The discovery of a leak or damage to the pipeline would prompt an immediate response. Clearing of the right-of-way would be required only if access to the pipeline is impeded by vegetation.

**Availability of Resources:** Administrative costs incurred by the Refuge to permit and monitor this new distribution pipeline are minimal since it would occur within an existing right-of-way corridor. The construction phase across the Refuge would be short-term. It has been determined that adequate resources exist to properly manage this Refuge use.

**Anticipated Impacts of the Use:** In general, impacts from the installation of this new distribution pipeline are expected to be minor. Once installed, there would be minimal visible impacts to the landscape. There would be no wetland impacts. Maintenance of the existing road corridor includes road shoulder clearing, drainage and ditch maintenance, so allowing this buried pipeline within the existing corridor would not result in any additional land surface disturbance. Pipeline repairs may occur during the life of the permit that could require equipment and crews trenching and repairing or replacing portions of the pipe. Equipment and crews conducting maintenance operations would not significantly impact Refuge resources since this pipeline would exist within an existing road corridor.

**Public Review and Comment:** This compatibility determination was subject to a 14-day public comment period. A public notice was published in the Legal Notices section of the Kenai Peninsula Clarion on March 1, 2009. One comment letter was received, from the State of Alaska. The State indicated that since this new pipeline would be located within the Funny River Road State-owned right-of-way, the proposed activity would also require authorization from the Alaska Department of Transportation and Public Utilities (ADOT&PF).

**Determination (check one below):**

\_\_\_\_\_ Use is Not Compatible

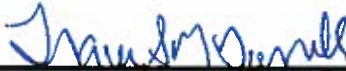
  X   Use is Compatible with Following Stipulations

**Stipulations Necessary to Ensure Compatibility:** The new right-of-way permit will include special stipulations to ensure compatibility (See attached right-of-way permit for a full set of conditions). Additionally, regulations require that any new right-of-way permits issued must have a condition that allows for permit modification at any future time to ensure compatibility. This allows for additional permit stipulations to be added over the life of the permit because of new information, technologies, or concerns, and does not require waiting for the permit to expire (as is the case with historic permits).

**Justification:** The request for a new right-of-way use within the existing road right-of-way has minimum additional operational aspects that would impact the Refuge. The proposed permit

conditions address Refuge concerns and include the ability to modify the permit conditions at any time to ensure compatibility.

Signature (Refuge Manager):  3/24/09  
Signature and Date

Concurrence (Regional Chief): <sup>Acting</sup>  3/31/09  
Signature and Date

**Mandatory 10-year Re-evaluation Date:** N/A - Rights-of-Way often are approved for extended periods of time. The National Wildlife Refuge System Administration Act of 1966, as amended, treats Refuge uses that are approved for longer than 10 years differently than other uses. During the life of the permit only compliance with the terms and conditions of the authorization are to be examined, not the authorization itself. After expiration of the permit, the use is to be re-evaluated for compatibility.